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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------------|------------------|
| 10/605,714 | 10/21/2003 | Evelyn A. Breznik | BMCA9159.345 | 2713 |
| 27062 | 7590 | 01/24/2006 | | |
| OSLER, HOSKIN & HARCOURT LLP (BRP2) 2100 -1000 DE LA GAUCHETIERE ST. WEST MONTREAL, H3B4W5 CANADA | | | EXAMINER LUKS, JEREMY AUSTIN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2837 | |

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EJL

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/605,714 | BREZNIK, EVELYN A. | |
| | Examiner | Art Unit | |
| | Jeremy A. Luks | 2837 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleyn (5,468,923).

With respect to Claims 1 and 5, Kleyn teaches a base (Figure 1, #22) having an opening (40) constructed to allow air passage therethrough; and a cover (Figure 3, #20) having a cellular surface (34a) whereby the cover (20) is constructed to be attached and bonded (Figure 1, #36) to the base (22) so as to enclose an air path (Figure 9, #38) therebetween.

With respect to Claim 2, Kleyn teaches a second opening (Figure 1, #42) constructed to allow air passage therethrough.

With respect to Claim 3, Kleyn teaches a cellular surface (Figure 3, #32a, 34a) integrally formed on an inner surface of the cover (20).

With respect to Claims 6 and 7, Kleyn teaches said cellular surface (Figure 3, #32a, 34a) comprises a plurality of equally shaped cells (44) forming a waffle pattern.

With respect to Claims 8, 9, 11 and 12, Kleyn teaches a pair of walls (Figure 2, #34a) extending from the base (22) and generally aligned with a pair of walls (34a)

extending from the cover (20), wherein said walls (34a) for a first and a second chamber (44) with an opening (38) for fluid communication therebetween.

With respect to claim 10, it is inherent to construct an air intake silencer with sufficient rigidity to prevent substantial noise travel therethrough.

3. Claims 1, 4, 13-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Henmi (6,312,299).

With respect to Claims 1, 4 and 13, Henmi teaches an air intake silencer housing (figure 5, #12) comprising a base (94) having an inlet opening (104) constructed to allow air passage therethrough to an outlet (96); and a cover (98) having a cellular surface (Figure 15, #164), the cover (Figure 5, #98) constructed to be attached to the base (94) so as to enclose an air path therebetween; and incorporating said air intake silencer (12) into an engine (50) such that the opening allows air passage to a combustion chamber (97).

With respect to Claim 14, Henmi teaches that first chamber (Figure 5, #106) and a second chamber (90) are formed along a path (108) so that a flow (128) therethrough must pass through both the first and the second chambers (106, 90).

With respect to Claim 15, Henmi teaches a plurality of outlets (Figure 5, #96) constructed to allow air passage to a plurality of throttle bodies (102) of the engine (50).

With respect to Claims 16-18, Henmi teaches the housing (12) further comprises a base (Figure 5, #94) and a cover (98) and the grid (Figure 15, #164) is formed at least on the cover (98), where in the grid (164) is made of a plurality cells (168) and is on the interior surface (101) of said cover (98).

With respect to Claim 19, Henmi teaches the outlet (Figure 5, #96) further comprises an axis that is generally perpendicular to the grid (Figure 8 - see perpendicular positing of outlet (94) to upper grid portion of cover (98)).

With respect to Claim 20, Henmi teaches an air intake silencer mounted to an engine of a watercraft (Col. 2, Lines 35-36).

With respect to Claim 21, Henmi teaches an engine (Figure 5, #50) having at least one cylinder (51) defining a combustion chamber (97); an air intake (104) to deliver air to the engine (50); an air box (12) in fluid communication with the air intake (104) and having a flow path (128) therethrough; and a ribbed surface (164) on an inside surface (101) of the air box (12).

With respect to Claim 22, Henmi teaches the air box (12) further comprises a base (Figure 5, #94) and a cover (98) wherein the base (94) is constructed to attach to the air intake (104) and the cover (98) is constructed to attach to the base (94) and the ribbed surface (Figure 8, 164) is formed on an inside (101) of the cover (98).

With respect to Claim 23 and 24, Henmi teaches the air box (12) further comprises at least a pair of resonator chambers (90,106), wherein the pair of resonator chambers (90,106) are formed integrally with the air box.

With respect to Claims 25 and 26, Henmi, teaches the ribbed surface (Figure 15, #164) comprises a plurality of parallel and perpendicular ridges, wherein an axis of the air intake (Figure 5, #104) is generally perpendicular to the ribbed surface (Figure 15, #164).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record related to air intake silencers are disclosed in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy A. Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeremy Luks
Patent Examiner

Art Unit 2837


Edgardo San Martín
Primary Patent Examiner